



BRIEFING PAPER

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The Government leaflet on the EU Referendum

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Summary

The referendum on the UK's membership of the European Union will be held on 23 June 2016. The Government has published a [leaflet](#) setting out its recommendation that the UK should remain a member of the EU; this leaflet will be distributed to every household in the UK.

The cost of publishing and distributing the leaflet will be £9.3 million.

Brexit campaigners have expressed anger that public money was been used to fund the leaflet but the Government has said that it was entirely legitimate for it to make the case for staying in the EU and there was no legal reason why it could not do so.

An [e-petition about the EU leaflet](#) has attracted over 200,000 signatures and the petition will be debated by the House of Commons in Westminster Hall on 9 May 2016.

On 13 April 2016 the Electoral Commission designated the [In Campaign \(Britain Stronger in Europe\)](#) and [Vote Leave](#) as the lead campaign organisations for the referendum. The lead campaigners are entitled to certain benefits including a higher spending limit (£7 million), a free mail shot to every voter, referendum campaign broadcasts and public funding (up to £600,000 for the administration of the campaign). Library Briefing Paper, [The EU Referendum Campaign](#) gives further information.

The designated lead campaigners will also each get a dedicated page to put their case in the public information booklet that the Electoral Commission will distribute to all households in the UK. The booklet will also include a link to the lead campaigners' websites.

During the 1975 EEC Referendum campaign, both the 'Yes' campaign (Britain in Europe) and the 'No' campaign (National Referendum Campaign) each received a Government subsidy of £125,000. In addition, the Government paid for the distribution of the 'No' campaign's leaflets.

The Briefing Paper also provides information about the Venice Commission's [Code of good practice on referendums](#). The Venice Commission, (also known as the European Commission for Democracy through Law), is the Council of Europe's advisory body on constitutional law. The Code outlines the principles underpinning referendums and the conditions for implementing those principles including guidelines on the specific rules applicable to a referendum.

1. Background

The referendum on the UK's membership of the European Union will be held on 23 June 2016.

The *European Union Referendum Act 2015* required the Government to publish reports on the outcome of the Prime Minister's negotiations with the other EU leaders, and on the nature of and alternatives to EU membership. There is no requirement for these reports to be neutral.

There are no legal requirements for the Government to be neutral during the EU referendum campaign period. However, during the final 28 days before the referendum, the Government (and other public bodies) are prohibited from publishing information about the referendum.

More information is provided in the Electoral Commission's [factsheet on publication restrictions](#).

The Government and other public bodies are therefore prohibited from campaigning during the pre-referendum 'purdah' period. No such restrictions apply to the two designated lead campaigns. See the Library's Briefing Paper, ['Purdah' before elections and referendums](#), for further information.

2. The leaflet

The Government has published a leaflet setting out its recommendation that the UK should remain a member of the EU. The leaflet was distributed to every household in England in the period between 11 and 13 April 2016 and will be delivered to households in Scotland, Wales and Northern Ireland during the week beginning 9 May 2016. The total cost of publishing and distributing the leaflet will be £9.3 million.

The Minister for Europe, David Lidington, made a statement to the House of Commons on 11 April 2015 and gave further information about the publication, costs and distribution of the leaflet and about the Government website:

It is important that this key decision by the British people should be made on the basis of the facts. Independent polling, carried out on behalf of the Cabinet Office, has suggested that 85% of voters want more information and, in particular, want the Government to set out more information on the basis of which electors could take an informed decision.

The European Union Referendum Act already obliges the Government to publish information for the public on the outcome of the renegotiation that the Government have conducted to secure our special status in the European Union, on alternatives to membership and on the rights and obligations that arise from EU membership. Papers on the first and second of those topics have already been published, and a paper on the third will be published shortly. Those are available on a section of the gov.uk website dedicated to the referendum, along with other related information. The reports have also been laid before Parliament.

The same is true of a separate Government report on the process of withdrawing from the European Union. Although that was not a specific obligation under the 2015 Act, it represents the delivery of an undertaking given from the Dispatch Box in the House of Lords by Baroness Anelay. The Treasury, as the Chancellor has announced, will publish a comprehensive analysis of UK membership of a reformed European Union and of the alternatives, including the long-term economic costs and benefits of EU membership and the risks associated with an exit.

Separately, every household in the country will receive a leaflet from the Government. The leaflet sets out the facts, explains why the Government believe that a vote to remain in the European Union is in the best interests of the British people and shows some of the choices that the country would face if the British people were to vote to leave. The leaflet encourages the public to register to vote by 7 June and directs electors to where and how they should do that.

Last week, the Government launched a stand-alone website that features the leaflet online and provides further information to the public. That will be advertised on social media and other digital channels. The leaflet follows precedent from previous referendums, including those on EU membership in 1975, on the creation of the Scottish Parliament and Welsh Assembly in 1997 and on the creation of the mayoral system in London in 1998; in addition, there were two Government leaflets during the Scottish referendum in 2014. Government publications of that kind, and the distribution of a Government leaflet, are entirely lawful.

Special rules limiting all Government publications and communications will apply in the last 28 days of the referendum campaign under the provisions of the Political Parties, Elections and Referendums Act 2000.¹

According to a Gov.UK press release, the “total cost of producing, distributing and publicising the leaflet across the UK is £9.3 million – a cost of around 34p per household”. Breakdown of these costs was given as follows:

- production – £458,500
- print and delivery to over 27 million homes across the UK in 2 waves – £5,947,436
- digital promotion and website – £2,894,064.²

The costs of the leaflet will be met from the Cabinet Office budget.³

The Electoral Commission has provided the following statement on the Government’s EU leaflet:

The Electoral Commission is responsible for regulating the rules on spending in the run-up to the EU Referendum. The rules on spending apply during the regulated period which starts on 15 April and ends on polling day, 23 June. The rules exclude spending that is met out of public funds, which includes spending by the government on the government information booklet.

After the referendum on Scottish independence, the Electoral Commission recommended that governments should conduct no taxpayer-funded advertising activity during the regulated period. However, Parliament decided not to put any legal restrictions on government activity until 28 days before the poll, 27 May. These are the same rules that were in place for other recent referendum.⁴

News reports, features and editorials in print or online media are not subject to electoral law and the law does not require them to be impartial.

Political impartiality in broadcast media is covered by the editorial guidelines relevant to that broadcaster. The BBC has editorial guidelines and commercial broadcasters are subject to the Ofcom Broadcasting Code.

2.1 Format of the leaflet

The Government leaflet on the EU referendum will be delivered to every household in the UK. It is also available on the Government website which provides information about the referendum, see <https://www.eureferendum.gov.uk/>

The leaflet has been made available in the formats listed below which can be accessed from the website.

¹ [HC Deb 11 April 2016 c72](#)

² Cabinet Office, [Government responds to public desire for EU facts](#), 6 April 2016

³ PQ 33273 14 April 2016

⁴ Electoral Commission, [Electoral Commission Statement on UK Government leaflet ahead of EU Referendum](#), 7 April 2016

[Large print version of the leaflet](#)

[Version of the leaflet suitable for users of assistive technology](#)

[Audio version](#)

A version of the leaflet in Braille can also be made available on request by contacting the Cabinet Office

2.2 Designated lead campaigns

On 13 April 2016 the Electoral Commission designated the [In Campaign \(Britain Stronger in Europe\)](#) and [Vote Leave](#) as the lead campaign organisations for the referendum.

Lead campaign organisations receive a number of benefits, including public funding. They are also entitled to higher spending limits, a free mail shot to every voter, referendum campaign broadcasts and public funding. The Electoral Commission summarised the benefits in a press release announcing its decision about the lead campaigns:

The two lead campaigners will now have access to specific benefits set out in law during the regulated 'referendum period' which begins on 15 April. The benefits of being a lead campaigner are:

- A higher spending limit of £7 million
- One free distribution of information to voters
- The use of certain public rooms
- Referendum campaign broadcasts
- A grant of up to £600,000 to be used for certain spending including the administration costs associated with setting up and running a referendum campaign and the costs associated with the TV broadcasts and free mailing to voters that they are entitled to as lead campaigners

In addition to these statutory benefits, lead campaign groups can have:

- A dedicated page in the Commission's public information booklet which will be distributed to all households in the UK (in both English language and bilingual English/Welsh language versions)
- The inclusion in the booklet of a link to a page on the campaigner's website, which should include their opinion on what will happen in the event of either referendum result.⁵

Library Briefing Paper, [The EU Referendum Campaign](#) gives further information.

2.3 Reaction to the publication of the leaflet

Brexit campaigners reacted with anger to the publication of the Government's leaflet. The BBC reported:

⁵ [Electoral Commission designates 'Vote Leave Ltd' and the 'In Campaign Ltd' as lead campaigners for the EU referendum](#), Electoral Commission news release, 13 April 2016

"I think it is deeply disappointing that the government is going to spend taxpayers' money in a bid to distract the media headlines away from the allegations of offshore banks that have dogged the prime minister," Robert Oxley, a Vote Leave spokesman, said.

"Our money should not be used on propaganda, trying to buy votes. We already send £350m to Brussels each week. We should spend our money on our priorities like the NHS."

London Mayor Mr Johnson, one of the most senior Conservative politicians to back leaving the EU, said the move was a "crazy waste of money".

Both sides needed to be able to put across their arguments fairly to guarantee an "informed" debate, he said.

Conservative MP Bernard Jenkin, a prominent supporter of Vote Leave, said it was "an outrageous abuse of taxpayers' money" which "flies in the face of the government's claim that they want a fair referendum".

"In this one act, the government will spend more on their Remain campaign than the official Leave group will be able to spend between now and polling day," he said.⁶

Michael Gove was critical of the publication of the leaflet:

"I want a fair campaign, I want to hear from both sides," he told the BBC.

"I just think it is wrong that at a time of austerity, £9m of taxpayers' money is being spent on a one-sided piece of propaganda.

"That money should be being spent on the NHS and the people's priorities, not on propaganda."⁷

The Prime Minister defended the decision to publish the leaflet:

...Mr Cameron denied spending taxpayer money on the leaflet was "undemocratic".

"We are not neutral in this," he said.

"We think it would be a bad decision to leave. We think it would be bad for our economy, bad for jobs, bad for investment, bad for families' finances.

[...]

We are not neutral so we have made a clear stance in this leaflet which everyone will get a copy of."

He went on: "There is nothing to stop the Government from setting out its view in advance of the campaign and that's what the Government did in 1975, when we last had a referendum."⁸

⁶ [EU Referendum: Government to spend £9 million on leaflets to every home](#), BBC, 7 April 2016

⁷ [David Cameron criticised by Michael Gove for putting money into 'one-sided propaganda' in EU leaflets row](#), *Independent*, 7 April 2016

⁸ *ibid*

3. E-petition on the EU leaflet

An [e-petition about the EU leaflet](#) has attracted over 200,000 signatures:

STOP CAMERON spending British taxpayers' money on Pro-EU Referendum leaflets

Prime Minister David Cameron plans to spend British taxpayers' money on a pro-EU document to be sent to every household in the United Kingdom in the run up to the EU referendum. We believe voters deserve a fair referendum - without taxpayer-funded biased interceptions by the Government.

We, the petitioners, demand the Government STOPS spending our money on biased campaigning to keep Britain inside the European Union.

The Great British Public have waited since 1975 for a vote on our relationship with Brussels. No taxpayers' money should be spent on campaign literature to keep Britain inside the EU.

This petition is due to be debated by the House of Commons on 9 May 2016 in Westminster Hall.

4. Electoral Commission voting guide

The Electoral Commission will publish a voting guide for the EU referendum which will be delivered to every household in the UK between 16 and 21 May 2016. The voting guide will also be available on the Commission's website from 10 May 2016.

The voting guide will form part of the Electoral Commission's public awareness campaign about the referendum which will include TV, radio, outdoor and online advertising.

The guide will provide details of how to register, the registration deadline and how to fill in the ballot paper. Each lead campaigner will be given a page in the guide to provide information about their campaign.

5. Venice Commission's Code of good practice on referendums

The Venice Commission (also known as the European Commission for Democracy through Law) is the Council of Europe's advisory body on constitutional law. Its members (independent experts in constitutional law) advise Council of Europe Member States on constitutional matters, including new constitutions and electoral processes. It is unable to enforce standards on a Member State.

The Venice Commission's codes and guidelines are not legally binding.

The Venice Commission's [*Code of good practice on referendums*](#) in its current form was adopted in 2006 with an explanatory memorandum adopted in 2007. It outlines the principles underpinning referendums and the conditions for implementing those principles including guidelines on the specific rules applicable to a referendum.

The Venice Commission says that all public authorities must provide balanced information on referendums, but that, unlike in elections, government intervention for or against the referendum question is not completely prohibited.

5.1 Provisions in the Code

Section I.2.2 - 'equality of opportunity'

This states that there should be equal opportunity for supporters and opponents of the proposal being voted on with a neutral attitude by administrative authorities in particular with regard to the referendum campaign, media coverage, public funding of the campaign, billposting and advertising and the right to demonstrate.

The explanatory notes of the Code expand on these points and emphasise equality of opportunity between the supporters and opponents of the proposal being voted on notably as concerns the coverage by the media, in particular in news broadcasts, as well as public subsidies and other forms of backing. It says it is advisable to ensure equality between the proposal's supporters and opponents in terms of public subsidies and other forms of backing.

Section I.3.1 - 'freedom of voters to form an opinion'

It states that administrative authorities must observe their duty of neutrality. However, it also says that contrary to the case of elections, it is not necessary to prohibit completely intervention by public authorities. It goes on to say that "public authorities (national, regional and local) must not influence the outcome by excessive, one-sided campaigning. The use of public funds for campaigning purposes must be prohibited".

Section 3.1 also includes the recommendations that electors must be informed of the effects of the referendum. Section 3.1.d says that authorities must provide objective information. The section goes on to say:

This implies that the text submitted to a referendum and an explanatory report or balanced campaign material from the proposal's supporters and opponents should be made available to electors sufficiently in advance, as follows:

- i. they must be published in the official gazette sufficiently far in advance of the vote;
- ii. they must be sent directly to citizens and be received sufficiently far in advance of the vote;
- iii. the explanatory report must give a balanced presentation not only of the viewpoint of the executive and legislative authorities or persons sharing their viewpoint but also of the opposing one.

The explanatory notes explain that while intervention by the authorities in support of candidates in an election is unacceptable, the situation is different in the case of referendums:

It is legitimate for the different organs of government to convey their viewpoint in the debate for or against the text put to the vote. They must not abuse their position, however. In any event, the use of public funds for campaigning purposes must be prohibited in order to guarantee equality of opportunity and the freedom of voters to form an opinion. In addition, the public authorities at every level (national, regional or local), must not engage in excessive, one-sided campaigning, but show neutrality. Clearly, this does not mean they will not take a stand, but they must provide a certain amount of necessary information in order to enable voters to arrive at an informed opinion. Voters must be able to acquaint themselves, sufficiently in advance, with both the text put to the vote and, above all, a detailed explanation

- the best solution is for the authorities to provide voters with an explanatory report setting out not only their viewpoint or that of persons sharing it, but also the opposing viewpoint, in a balanced way;

- another possibility would be for the authorities to send voters balanced campaign material from the proposal's supporters and opponents – corresponding, *mutatis mutandis*, to candidates' election addresses made available to citizens prior to some elections.

Both the text and the explanatory report or balanced campaign material must be sent directly to citizens sufficiently in advance of the vote (at least two weeks beforehand).

Section III.1 - Rule of Law

The Venice Code also makes reference to the rule of law. It states that "the use of referendums must comply with the legal system as a whole, and especially the procedural rules."

The legal basis for the EU referendum in the UK is The *Political Parties, Elections and Referendums Act 2000* (PPERA). This sets out a regulatory framework for referendums. Among other things, PERA regulates how much can be spent by campaigners (these limits are higher for campaigners registered with the Electoral Commission, known as permitted participants) and what donations they can accept.

Each referendum held subsequently still requires primary legislation to set the terms of the question and the franchise to be used, amongst

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other provisions. The *European Union Referendum Act 2015* received Royal Assent on 17 December 2015.

6. The 1975 EEC Referendum leaflets

During the 1975 EEC Referendum campaign, both the 'Yes' campaign (Britain in Europe) and the 'No' campaign (National Referendum Campaign) each received a government subsidy of £125,000. In addition, the Government paid for the distribution of the 'No' campaign's leaflets.

In the 1975 White Paper, *The Referendum on UK Membership of the European Community* (Cmd 5925), the Government had said that they would be willing to consider public funding for the two opposing views in the referendum debate.

During a debate on these proposals on 11 March 1975, the Leader of the House, Ted Short, said:

We have also considered the campaigns likely to be mounted by the two umbrella organisations, and we have come to the view that, in the interests of a fair contest, there is something to be said for a modest degree of support for the two organisations particularly as there is likely to be disparity in the funds available to them

[...]

However, whatever is decided on a direct cash subvention, the Government's major contribution is likely to be paying for the production and distribution, at the same time as the Government's own documents - which I have described - of the brief statement of both sides of the case which the White Paper describes as similar to an election address.⁹

Section 3 of the *Referendum Act 1975* provided for the following:

3.(1) The Lord President of the Council may, with the consent of the Treasury, make to each of the following organisations, namely-

- (a) Britain in Europe, and
- (b) National Referendum Campaign;

a grant not exceeding £125,000 towards the expenses incurred by them or by organisations affiliated to them for the purposes of the referendum.

(2) A grant under this section may be made subject to such conditions as the Lord President may specify and those conditions may include the keeping and making available for publication of accounts showing such particulars as may be so specified

of-

- (a) the sums received or spent for the purpose of the referendum since 26th March 1975; and
- (b) the persons from whom any such sums were received and the persons to whom any such sums were paid.¹⁰

⁹ HC Deb Vol 888 cc302-3 11 March 1975

¹⁰ *Referendum Act 1975*, Section 3

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According to the Fifth Report of the Committee on Standards in Public Life, in 1975 the Government

delivered free of charge to every household a non-technical version of its White Paper explaining its own recommendation of a Yes vote and by, secondly, having delivered, also free of charge, to every household short statements of both the Yes and the No views.¹¹

David Butler and Uwe Kitzinger also discussed the funding arrangements for the 1975 EEC Referendum in their book *The 1975 Referendum*:

The problems of financing the campaigns attracted oddly little attention. The government argued that they were contributing the equivalent of £750,000 to £1 million to each of the umbrella organisations by distributing their rival leaflets nationwide (but they were not responsive to Sir Con O'Neill's suggestion on March 18 that they should abandon the leaflets and divide the money saved between the campaigning organisations). The grant of £125,000 to each side seems to have been arrived at somewhat arbitrarily.¹²

The 'No' campaign's 1975 leaflet, *Why you should vote No*, stated that:

Her Majesty's Government have arranged and paid for the printing of this booklet but have played no part in the preparation of the text, which was provided by the **National Referendum Campaign**. The same is true of a similar booklet of which the text was provided by **Britain in Europe**. Both booklets are being distributed to households by the Post Office and will be available in main Post Offices during the days immediately before the Referendum.

¹¹ Fifth Report of the Committee on Standards in Public Life, *The Funding of Political Parties in the United Kingdom*, October 1998, para 12.21 [2]

¹² D Butler and U Kitzinger, *The 1975 Referendum*, 2nd edition, 1996,

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